

Federal Trade Commission

§ 4.7

elected to be served via the electronic filing system:

(i) Service of documents labeled “Public” pursuant to § 4.2(b) may be effected through the electronic filing system;

(ii) Each such party thereby agrees that, for any document served through the electronic filing system, transmission of the notice of electronic filing provided by the electronic filing system shall satisfy the service obligations of the serving party; and

(iii) A document served via the electronic filing system shall be deemed served on the date the notice of electronic filing is transmitted, unless the serving party learns that the notice of electronic filing did not reach the person to be served.

(2) *Service by other methods of electronic delivery.* (i) In the following circumstances, service by other methods of electronic delivery (including service by email) may be effected as the Administrative Law Judge and the Secretary may direct:

(A) The document to be served is labeled “*In Camera*” or “Confidential” pursuant to § 4.2(b);

(B) The party to be served has not elected to be served via the electronic filing system;

(C) The document is to be served upon a third party; or

(D) Service under paragraph (e)(1) of this section is unavailable for technical reasons.

(ii) If documents labeled “*In Camera*” or “Confidential” are being served under this paragraph (e)(2), the documents must be encrypted prior to transit or must be transferred through a secure file transfer protocol. Service of a document under this paragraph (e)(2) shall be complete upon transmission by the serving party, unless the serving party learns that the document did not reach the person to be served.

(f) *Service of process upon the Commission.* Documents served upon the Commission may be served by personal delivery (including delivery by courier) or by first-class mail to the Office of the Secretary of the Commission.

[80 FR 25942, May 6, 2015; 80 FR 60797, Oct. 8, 2015]

§ 4.5 Fees.

(a) *Deponents and witnesses.* Any person compelled to appear in person in response to subpoena shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

(b) *Presiding officers.* Officers before whom depositions are taken shall be entitled to the same fees as are paid for like services in the courts of the United States.

(c) *Responsibility.* The fees and mileage referred to in this section shall be paid by the party at whose instance deponents or witnesses appear.

[32 FR 8456, June 13, 1967]

§ 4.6 Cooperation with other agencies.

It is the policy of the Commission to cooperate with other governmental agencies to avoid unnecessary overlapping or duplication of regulatory functions.

[32 FR 8456, June 13, 1967]

§ 4.7 Ex parte communications.

(a) *Definitions.* For purposes of this section, *ex parte communication* means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding.

(b) *Prohibited ex parte communications.* While a proceeding is in adjudicative status within the Commission, except to the extent required for the disposition of *ex parte* matters as authorized by law:

(1) No person not employed by the Commission, and no employee or agent of the Commission who performs investigative or prosecuting functions in adjudicative proceedings, shall make or knowingly cause to be made to any member of the Commission, or to the Administrative Law Judge, or to any other employee who is or who reasonably may be expected to be involved in the decisional process in the proceeding, an *ex parte* communication relevant to the merits of that or a factually related proceeding; and

(2) No member of the Commission, the Administrative Law Judge, or any